

**2003 DRAFTING REQUEST****Bill**Received: **12/06/2002**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**By/Representing: **Kathy Marschman (aide)**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**  
**Transportation - traffic laws**Extra Copies: **TNF, PJH**Submit via email: **YES**Requester's email: **Rep.Petrowski@legis.state.wi.us**Carbon copy (CC:) to: **Kathy.Marschman@legis.state.wi.us**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Location of children in vehicles and use of safety belts and child booster seats

---

**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/2	agary	kgilfoy	pgreensl	_____	sbasford		S&L

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Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For: 12/18/2003, 12/18/2003.

"1/4" At intro.

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### Bill

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For: Jerry Petrowski (608) 266-1182

By/Representing: Kathy Marschman (aide)

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Carbon copy (CC:) to: **Kathy.Marschman@legis.state.wi.us**

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KMG

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Page 2

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FE Sent For: 12/18/2003, 12/18/2003.

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 AREB

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e-mail  
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11/14/2003 11:15:31 AM

Page 1

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FE Sent For:

&lt;END&gt;

**Gary, Aaron**

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**From:** Marschman, Kathy  
**Sent:** Friday, December 06, 2002 3:14  
**To:** Gary, Aaron  
**Cc:** Rep.Petrowski  
**Subject:** 2001 LRB 4290/P1

Hi Aaron. Last session you drafted LRB 4290 relating to child safety restraints in vehicles. In your notes you asked a couple of questions. Please redraft 4290 for 2003 incorporating the following issues from your notes.

1) Include the 30-day correction provision [s. 347.50(3)(b)]. The only issue I have with providing this is what about violations where they have the restraint system but simply aren't using it. They should not be able to avoid forfeiture if at the time of citation they have the appropriate equipment (child seat or booster) in their vehicle and are simply not using it (eg, the child screamed so much they just unbuckled him). Let me know if you want further clarification on this point. (I'm not confident of my ability to get a point across on Friday afternoons.)

2) Regarding primary v. secondary enforcement, maintain primary enforcement for booster seat violations (consistent with child seat and younger age seat belt violations).

3) I think it would be better to have a height/weight/age standard. The following link provides the NHTSAs guidelines. Can we use them? <http://www.nhtsa.dot.gov/people/injury/childps/>

4) Maintain the delayed effective date.

Let me know if you have questions or want additional clarifications.

Thanks-

Kathy

*Kathy Marschman*  
*Research Assistant/Committee Clerk*  
*Representative Jerry Petrowski*  
*86th Assembly District*  
*608.266.1182/Toll-Free: 888.534.0086*

12/06/2002



# Child Passenger Safety

[Child Safety Seat Recalls Search](#)
[State CPS Contacts](#)
[Fitting/Inspection Stations](#)
[Technician Contact Locator](#)
[Are You Using It Right](#)
[A Parent's Guide to Buying and Using Booster Seats \(HTML\) \(PDF\)](#)
[Child Passenger Safety Laws](#)
[One Minute Safety Seat Checklist](#)
[Types of Child Safety Seats](#)
[Child Safety Seat Dictionary](#)
[Child Safety Seat Registration Form](#)
[Child Safety Seat Recalls](#)
[NHTSA Regional Offices](#)
[Compliance Testing](#)
[Child Passenger Safety Training Programs](#)
[Air Bag On/Off Switch Installer Locator](#)
[Reporting Problems with Car Child Safety Seat](#)
[Guide to](#)

Select a Child Passenger topic for more information.

Site Search

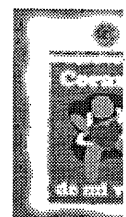
## Proper Child Safety Seat Use Chart

Buckle Everyone. Children Age 12 and Under in Back!

	INFANTS	TODDLER	YOUNG CHILDREN
<b>WEIGHT</b>	Birth to 1 year at least 20-22 lbs.	Over 1 year and Over 20 lbs.-40 lbs.	Over 40 lbs. Ages 4-8, unless 4'9".
<b>TYPE of SEAT</b>	Infant only or rear-facing convertible	Convertible / Forward-facing	Belt positioning booster seat
<b>SEAT POSITION</b>	Rear-facing only	Forward-facing	Forward-facing
<b>ALWAYS MAKE SURE:</b>	Children to one year and at least 20 lbs. in rear-facing seats  Harness straps at or below shoulder level	Harness straps should be at or above shoulders  Most seats require top slot for forward-facing	Belt positioning booster seats must be used with both lap and shoulder belt.  Make sure the lap belt fits low and tight across the lap/upper thigh area and the shoulder belt fits snug crossing the chest and shoulder to avoid abdominal injuries
<b>WARNING</b>	All children age 12 and under should ride in the back seat	All children age 12 and under should ride in the back seat	All children age 12 and under should ride in the back seat



This site provides new child restraint features; new vehicle and Child Safety features; proper installing and use safety restraint



Corazón d  
Kit

- News from
- 4 Steps to
- How to problems you have installing child car
- Children's Fact Sheet

Child Seat Help

**Gary, Aaron**

---

**From:** Gary, Aaron  
**Sent:** Thursday, December 12, 2002 1:13  
**To:** Marschman, Kathy  
**Subject:** RE: 2001 LRB 4290/P1

Hi Kathy,

I'm working on this today and should be able to get it into editing when I hear back from you. I want to clarify a couple of things first.

1. With regard to your item (1), as you indicate, the "correction" provision in the draft will be modeled after s. 347.50 (3) (b). Section 347.50 (3) (b) (as changed to fit the circumstances here) allows the forfeiture to be avoided only if the vehicle is not equipped with a child booster seat at the time of the violation AND the person obtains and installs a child booster seat within 30 days after the violation. So, with regard to your screaming child example, if a person has a child booster seat in the car and is simply not using it, the person could not avoid the forfeiture by means of the "correction" provision. However, if the person has a child booster seat sitting in the garage at home and simply hasn't installed it, the person could avoid the forfeiture by buying or leasing another child booster seat after the violation (which would seem to be a fairly unlikely scenario).

I'm considering two ways of drafting this. I think it works to simply model the provision here directly upon s. 347.50 (3) (b). However, I could also expand on s. 347.50 (3) (b) a bit and add a third requirement that the person also not own or have available a child booster seat at the time of the violation. This would address the "booster seat in the garage" example. But this approach also has its own problems in that it treats the person who bought the booster seat but hasn't installed it worse than the person who never bought the booster seat.

Do you want this "correction" provision modeled directly upon s. 347.50 (3) (b), or do you want it expanded to include the third requirement noted above?

2. With regard to your item (2), I can use the NHTSA standards, which are similar to standards used elsewhere, but if the bill has multiple standards (height/weight/age), the issue of the "triggering" standard will have to be addressed. If the criteria were, for example, 40 to 80 pounds, ages 4-8, and height of 4'9", must the child be properly restrained in a booster seat until the child meets any one of these criteria or all of the criteria, i.e. does a skinny 9 year old, weighing 70 pounds and 5' tall, have to be restrained in the child booster seat? The NHTSA web page you referenced doesn't give an upper end weight standard and implies that a child reaching the height of 4'9" need not be in a booster seat even if under age 8. Washington state was the first state to have a booster seat law, is the origin of the "booster seat coalition", and its law has often been looked to by other states. Washington state and New Jersey allow a child to "graduate" from the booster seat to a seat belt if the child meets either the age OR the weight requirement. A bill introduced in Illinois last year would also require a booster seat only until the child reaches the first of: 9 years old, 80 pounds, OR 4' 10". In California, a child must be in a booster seat only until the child reaches the first of: 6 years old OR 60 pounds. However, most of the safety organizations recommend the use of child booster seats until a child is 80 pounds AND (about) 4' 9" tall. The Center for Disease Control (CDC) recommends use of a booster seat until the child is at least 4' 10" tall (58"), has a sitting height of 29", AND weighs 80 pounds. (see [www.cdc.gov/od/oc/media/fact/boosters.htm](http://www.cdc.gov/od/oc/media/fact/boosters.htm)) The Washington State Booster Seat Coalition and other kids safety organizations also recommend using a booster seat until a child is 57" or 58" or 59" tall AND weighs 80 pounds. (see <http://depts.washington.edu/booster/faqs.htm> ; [www.keepkidshealthy.com/welcome/safety/car\\_seats\\_safety](http://www.keepkidshealthy.com/welcome/safety/car_seats_safety) ; [www.safetytips.com/newscenter/breakingnews/2001/04/24/boost\\_seat.html](http://www.safetytips.com/newscenter/breakingnews/2001/04/24/boost_seat.html).) (These sites are from my research file generated while drafting LRB-4290/P1, so hopefully they are not outdated yet.)

Considering the purpose of booster seats, height would seem to be the most important factor, followed by weight.

Do you want the draft to include height, weight, and age all as standards for requiring use of a booster seat. If so, do you want to require use of a booster seat until the child reaches any of the specified standards (the specified height, weight, OR age) or all of the specified standards (the specified height, weight, AND age), or do you want some other combination?

Thanks for your guidance. Aaron

12/12/2002

**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Thursday, December 12, 2002 1:41  
**To:** Marschman, Kathy  
**Subject:** RE: 2001 LRB 4290/P1

Kathy,

I clicked "send" too soon. Following up on the e-mail I just sent re child height/weight/age, I should clarify something about the existing draft and how it works under existing Wisconsin law. Under current law, children ages 4 to 8 are required to be in a seat belt (or a child car seat). Children under 4 must be in a car seat. The way the draft is prepared now, it basically says, regardless of age, if the child weighs between 40 and 80 pounds, the child must be in a booster seat (unless the child is in a car seat). Accordingly, there is an age criterion under existing law (for seat belt use only) but it is "trumped" in the draft by the weight criterion for booster seat use. Under existing law, a 6 year old who weighs 85 pounds would have to be in a booster seat up to about that point then in a seat belt for 2 more years until age 8. However, a 9 year old that weighs 70 pounds would have to continue to be in a booster seat. To the extent age is used as a booster seat factor, it might "swallow up" the existing s. 347.48 (4) (a) 2. (Since everybody is required to wear a seat belt, you might wonder at the applicability of these age/seat belt provisions - they relate to driver responsibility for passenger seat belt use and to primary enforcement of seat belt violations).

Hope this makes things more clear rather than more muddled.

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Marschman, Kathy  
**Sent:** Friday, December 06, 2002 3:14 PM  
**To:** Gary, Aaron  
**Cc:** Rep.Petrowski  
**Subject:** 2001 LRB 4290/P1

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- 2) Regarding primary v. secondary enforcement, maintain primary enforcement for booster seat violations (consistent with child seat and younger age seat belt violations).
- 3) I think it would be better to have a height/weight/age standard. The following link provides the NHTSAs guidelines. Can we use them? <http://www.nhtsa.dot.gov/people/injury/childps/>
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12/12/2002

**Gary, Aaron**

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**From:** Marschman, Kathy  
**Sent:** Monday, December 16, 2002 11:03  
**To:** Gary, Aaron  
**Cc:** Marschman, Kathy  
**Subject:** RE: 2001 LRB 4290/P1

Aaron-

I would have gotten back to you sooner, but I was unexpectedly home with my sick daughter at the end of last week. Here goes...

1. Correction Provision: Model it after 347.50 (3) (b). Do not expand it.

Page 1 of 3

**Gary, Aaron**

---

**From:** Marschman, Kathy  
**Sent:** Tuesday, December 17, 2002 10:11  
**To:** Gary, Aaron  
**Subject:** RE: 2001 LRB 4290/P1

OK, Aaron...

1. Let's go with 4'9" OR 80 pounds OR 8 years old.

Plus, a couple more changes...

2. Please eliminate 347.48(4)(a)3, the exemption for attending to a child's personal needs.
3. Change 347.48(2m)(c) to cover up to age 16 (instead of age 15).

Thanks-  
Kathy



Needed  
by 1/6/03

1094/81  
LRB-~~1000~~  
ARG-~~1000~~

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

King  
redraft  
make  
not  
run

D-Note

PLF: all amended stats.

between the ages of four and  
eight years ~~old~~,

REGEN

1 AN ACT to amend 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (a) 2., 347.48 (4) (a)  
2 3. (intro.) and a., 347.48 (4) (b), 347.487 (title) and 347.50 (4); and to create  
3 347.48 (4) (a) 2m. and 347.482 of the statutes; relating to: child safety restraint  
4 systems and seating positions and providing a penalty.

, ~~and~~ safety belt  
use requirements in  
motor vehicles,

**Analysis by the Legislative Reference Bureau**

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). ~~Under specified circumstances, a child being transported may be temporarily removed from a child safety seat or seat belt to attend to the child's needs.~~

Under this bill, no child weighing between 40 and 80 pounds may be transported in a motor vehicle unless the child is properly restrained in a child booster seat, by a seat belt with a shoulder harness in ~~a~~ back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or with a shoulder harness in a back seat, if all seating positions in each back seat equipped with a shoulder harness are occupied by other children who are properly restrained, or if the child is ~~under the age of four and~~ properly restrained in a child safety seat. Certain exceptions that apply to the child safety seat requirement also apply to this requirement ~~including the exception allowing temporary removal of the child to attend to the child's personal needs.~~ A person who fails to comply with this

, and four feet nine inches  
tall or less

requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. INSERT A ✓

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or if all designated seating positions in each back seat are occupied by younger passengers. A person who fails to comply with this requirement is subject to a forfeiture of \$10.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 347.48 (2m) (c) of the statutes is amended to read:

347.48 (2m) (c) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor vehicle is required to be equipped with safety belts in this state, no person may operate that motor vehicle unless he or she reasonably believes that each passenger who is at least 4 years old and not more than ~~15~~<sup>16</sup> years old and who is seated at a designated seating position in the front seat required under 49 CFR 571 to have a safety belt installed or at a designated seating position in the seats, other than the front seats, for which a shoulder harness has been installed is properly restrained.

SECTION 2. 347.48 (2m) (d) of the statutes is amended to read:

347.48 (2m) (d) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor vehicle is required to be equipped with safety belts in this state, no person who is at least 4 years old and who is seated at a designated seating position in the front seat required under 49 CFR 571 to have a safety belt installed or at a designated seating position in the seats, other than the front seats, for which a shoulder harness has

1 been installed may be a passenger in that motor vehicle unless the person is properly  
2 restrained.

3 SECTION 3. 347.48 (4) (a) 2. of the statutes is amended to read:

4 347.48 (4) (a) 2. No Except as provided in subd. 2m.<sup>✓</sup>, no person may transport  
5 a child who is at least 4 years old but less than 8 years old in a motor vehicle unless  
6 the child is properly restrained in a child safety restraint system approved by the  
7 department under subd. 1. or in a safety belt approved by the department under sub.  
8 (2). In this subdivision, "properly restrained" means fastened in a manner  
9 prescribed by the manufacturer of the system which that permits the system to act  
10 as a body restraint.

11 SECTION 4. 347.48 (4) (a) 2m.<sup>✓</sup> of the statutes is created to read:

12 347.48 (4) (a) 2m. No person may transport a child who weighs at least 40  
13 pounds but not more than 80 pounds in a motor vehicle unless the child is properly  
14 restrained in a child booster seat positioned at a designated seating position for  
15 which a shoulder harness has been installed in a back passenger seat. In this  
16 subdivision, "child booster seat" means a child passenger restraint system that  
17 meets the applicable federal standards under 49 CFR 571.213 and is designed to  
18 elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly  
19 positioned over the child's body. In this subdivision, "properly restrained" means  
20 wearing a safety belt consisting of a combination lap belt and shoulder harness  
21 approved by the department under sub. (2)<sup>✓</sup> and fastened in a manner prescribed by  
22 the manufacturer of the safety belt so that the safety belt properly fits across a child's  
23 lap and the center of a child's chest in a manner appropriate to the child's height,  
24 weight, and age that permits the safety belt to act effectively as a body restraint. This  
25 subdivision does not apply under any of the following circumstances:

✓  
, and is not more than 57 inches in height

is at least 4 years  
old but less than  
8 years old,

✓

- 1 a. The child is being transported in compliance with subd. 1. ✓  
2 b. The vehicle is not equipped with a back passenger seat.  
3 c. The vehicle is not equipped with a shoulder harness in any back passenger  
4 seat.

- 5 d. Each designated seating position equipped with a shoulder harness in a back  
6 passenger seat of the vehicle is occupied by another child who weighs not more than  
7 80 pounds and who is properly restrained. , and is not more than 57 inches  
in height, ✓

8 **SECTION 5.** 347.48 (4) (a) 3. (intro.) and a. of the statutes are amended to read:  
9 347.48 (4) (a) 3. Notwithstanding subds. 1. and 2., and 2m., a person other than  
10 the operator of a motor vehicle transporting a child required to be properly restrained  
11 under subd. 1. or 2., or 2m. may temporarily remove a child from a safety restraint  
12 system or child booster seat to attend to the personal needs of the child under all of  
13 the following conditions:

- 14 a. When the child safety restraint system or child booster seat is attached to  
15 a back passenger seat.

16 **SECTION 6.** 347.48 (4) (b) of the statutes is amended to read:  
17 347.48 (4) (b) The department may, by rule, exempt from the requirements  
18 under par. (a) any child who because of a physical or medical condition or body size  
19 cannot be placed in a child safety restraint system, child booster seat, or safety belt.

20 **SECTION 7.** 347.482 of the statutes is created to read:  
21 **347.482 Child seating requirements.** No person may operate a motor  
22 vehicle unless he or she reasonably believes that each passenger who is at least 4  
23 years old but less than 12 years old is seated at a designated seating position in a back  
24 passenger seat of the vehicle. This section does not apply if the vehicle is not

1 equipped with a back passenger seat or if all designated seating positions in each  
2 back passenger seat of the vehicle are occupied by younger passengers.

3 **SECTION 8.** 347.487 (title) of the statutes is amended to read:

4 **347.487 (title) Seating Motorcycle seating requirements.**

5 **SECTION 9.** 347.50 (4) of the statutes is amended to read:

6 347.50 (4) Any person violating s. 347.48 (4) (a) 2. or 2m. may be required to  
7 forfeit not less than \$10 nor more than \$25 for the first offense. For a 2nd or  
8 subsequent conviction within 3 years, a person may be required to forfeit not less  
9 than \$25 nor more than \$200.

10 **SECTION 10. Initial applicability.**

11 (1) This act first applies to violations committed on the effective date of this  
12 subsection, but does not preclude the counting of other violations as prior violations  
13 for purposes of sentencing a person.

14 **SECTION 11. Effective date.**

15 (1) This act takes effect on the first day of the 4th month beginning after  
16 publication.

17 (END)

D - Note

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1094/P1ins  
ARG:.....

INSERT A: ✓

~~No If~~ However, no forfeiture may be assessed if the vehicle was not equipped with a child booster seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child booster seat was purchased or leased and properly installed in the vehicle.

INSERT B: ✓

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years ~~old~~ is properly restrained by a seat belt. This bill extends this requirement to passengers up to the age of 16 years ~~old~~.

INSERT 5-4: ✓

SECTION 9. 347.50 (4m) of the statutes is created to read:

347.50 (4m) (a) Any person violating s. 347.48 (4) (a) 2m. may be required to forfeit not less than \$10 nor more than \$25 for the first offense. For a 2nd or subsequent conviction within 3 years, a person may be required to forfeit not less than \$25 nor more than \$200.

(b) No forfeiture may be assessed under par. (a) if

1. The motor vehicle was not equipped with a child booster seat meeting the requirements under s. 347.48 (4) (a) 2m. at the time the uniform traffic citation was issued ~~and~~ *all of the following apply* *that*

2. The person provides proof that, within 30 days after the uniform traffic citation was issued, a child booster seat meeting the requirements under s. 347.48 (4) (a) 2m. was purchased or leased and properly installed in the motor vehicle.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1094/P1dn

ARG:.....  
*img*

ATTN: Kathy Marschman

As specified in the drafting instructions, the attached draft, in created s. 347.48 (4) (a) 2m., requires the use of a booster seat for a child until the child reaches the age of eight, a weight of 80 pounds, <sup>①</sup> or a height of 4' 9". That is, when a child first attains any of the three criteria, the booster seat requirement no longer applies. You may notice that the connector used in created s. 347.48 (4) (a) 2m. of the draft is "and"; this is because the first clause in s. 347.48 (4) (a) 2m. begins negatively (with the word "no"), so the connector "and" functions the same as the connector "or" if the clause had begun positively.

I also note that the booster seat requirement in s. 347.48 (4) (a) 2m. applies to a child on the day before his or her eighth birthday, but does not apply to an eight year old. This provision is drafted to be consistent with the age range in s. 347.48 (4) (a) 2.

~~The attached draft is prepared as a preliminary draft. If the attached draft meets with Representative Petrowski's approval, please let me know and I will redraft it as an introducible "/1" draft.~~

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1094/1dn  
ARG:kmg:pg

December 19, 2002

ATTN: Kathy Marschman

As specified in the drafting instructions, the attached draft, in created s. 347.48 (4) (a) 2m., requires the use of a booster seat for a child until the child reaches the age of eight, a weight of 80 pounds, *or* a height of 4' 9". That is, when a child first attains any of the three criteria, the booster seat requirement no longer applies. You may notice that the connector used in created s. 347.48 (4) (a) 2m. of the draft is "and"; this is because the first clause in s. 347.48 (4) (a) 2m. begins negatively (with the word "no"), so the connector "and" functions the same as the connector "or" if the clause had begun positively.

I also note that the booster seat requirement in s. 347.48 (4) (a) 2m. applies to a child on the day before his or her eighth birthday, but does not apply to an eight year old. This provision is drafted to be consistent with the age range in s. 347.48 (4) (a) 2.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us





# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

### RESEARCH APPENDIX -

### PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Added To File: 12/18/02 (Per ARG)



☐ ☒ The drafting file for 2001 LRB 4290 has been  
transferred to the drafting file for 2003 LRB 1094

☒ This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

☒ For research purposes, because the attached 2001 draft was incorporated into a new 2003 draft, this cover sheet and the complete drafting file was transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

---

☐ ☒ The drafting file for 2003 LRB \_\_\_\_\_ has been  
copied/added to the drafting file for 2003 LRB \_\_\_\_\_

☒ For research purposes, because the attached 2003 draft was incorporated into another 2003 draft, the attached drafting file was copied on yellow paper (duplicated/auto centered/reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☒ This cover sheet was copied on yellow paper and added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

**Gary, Aaron**

---

**From:** Marschman, Kathy

**Sent:** Friday, September 26, 2003 3:10

**To:** Gary, Aaron

**Subject:** LRB 1094/1 Changes

Aaron-

Attached is document that describes changes to LRB 1094/1 that Rep. Petrowski would like. Please let me know if you have any questions. (If I sent this to you during the past few days, please let me know and disregard the rest of this message.) Have a good weekend. :)

Thanks-

Kathy

*Kathy Marschman*

*Research Assistant/Committee Clerk*

*Representative Jerry Petrowski*

*86th Assembly District*

*608.266.1182/Toll-Free: 888.534.0086*

09/29/2003

Child Passenger Safety Legislation Goals  
LRB 1094/1

Make changes to the draft to accomplish the following:

- analysis* →
1. Drivers are responsible for ensuring passengers up to the age of 16 are properly restrained.
  2. Require children under the age of 8 years be restrained in an age and size-appropriate child safety restraint system that meets the federal standards under 49 CFR 571.213 in the following descending order of protectiveness:
    - a. A child younger than one year of age or weighs less than twenty pounds shall be restrained in a rear-facing child safety restraint system.
    - b. A child at least one year of age and weighs at least 20 pounds but is younger than four years of age or less than 40 pounds shall be restrained in a forward-facing child safety restraint system.
    - c. A child at least four years of age but younger than eight years of age or ~~who weighs at least 40 pounds and is less than fifty-seven inches in height~~ shall be properly restrained in a belt positioning booster seat that is secured with a 3-point restraint system.
    - d. A child who because of age or weight can be placed in more than one category shall be placed in the more protective category.
  3. Penalty for violating #2 is \$30-\$75
  4. Require children under the age of 12 to be seated in the following seating positions prioritized from most preferable to least preferable:
    - a. back seat with a 3-point restraint system
    - b. front seat in a 3-point restraint system
    - c. back seat in a 2-point restraint system
  5. Create an appropriation so that a portion of revenues collected for violations of #2 will be used to provide restraint systems for low-income families.
  6. Change current law penalty for violation of 347.48 (4) (a) 2. from \$10-\$25 to \$30-\$75.

# Selecting the Right Kind of Car Seat for Your Child's Weight and Age

Safe Ride News

2003

Fact Sheets

- The safest car seat is one that fits your child and your vehicle and is easy to use correctly on EVERY ride.
- The choice of car seat (child safety seat) depends on age, weight, height, and behavior.
- Car seats are designed for children of average size. Your own child's size and needs may vary.
- Beware of used car seats. They may not have all their parts and could have hidden damage from a crash.
- Follow car seat and vehicle instructions. The safest place for any child is in the back seat, correctly buckled up. **NEVER** place a baby in front with an active air bag!

## Resources:

NHTSA Auto Safety Hotline:  
888-DASH-2-DOT, 800-424-9153(tty)  
[www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)  
SafetyBeltSafe U.S.A. (SBS USA)  
Helpline: 800-745-SAFE, [www.carseat.org](http://www.carseat.org)  
Safe Ride News, [www.safedenews.com](http://www.safedenews.com)

Birth

Age 1

40 pounds

Age 3 to 5 years

60 to 100 pounds

Age 8 to 10 years

## STAGE 1:

### Rear-Facing Car Seat to at least age 1

Infant-only seat: rear-facing only

Convertible car seat: rear-facing up to maximum weight on label (22 to 35 pounds).

Car bed: if baby needs to lie flat (list at [www.safedenews.com](http://www.safedenews.com)).

**Premies:** face the rear for at least one year after their full-term due date.



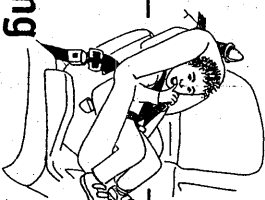
## STAGE 2:

### Forward-Facing Car Seat With Harness

Convertible car seat: use up to 40 pounds.

Forward-facing seat, built-in child seat, vest: over age 1 to 40 pounds or more (check label).

**Combination Child Seat/Booster:** use with harness up to 40 pounds or more (check label).



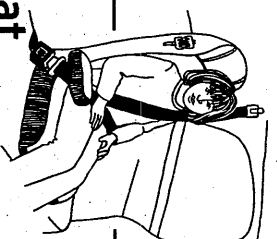
## STAGE 3:

### Booster Seat With Lap-Shoulder Belt

Always use booster with lap-shoulder belt; upper weight limits vary (60 to 100 pounds); use until vehicle belts fit properly (Stage 4).

**If no shoulder belt is available,** use products for children over 40 pounds. \*\*

Use until seat belt fits correctly. (Some older cars have shoulder belt kits available for installation. \*\*\*)



## Stage 4:

### Lap-Shoulder Belt That Fits Well

How to know the seat belt fits:\*\*\*\*

- Child must be able to sit with buttocks against the seat back.
- Legs should bend naturally at edge of cushion.
- Lap belt fits low on hips, at thighs.
- Shoulder belt fits across middle of shoulder. **NEVER** put the shoulder belt under the arm or behind the back!
- Child should be able to sit this way for an entire trip.



Wisconsin Information Network for Safety

(WINS)

52 Sunset Blvd.

Stevens Point, WI 54481

Toll Free: 1-866-511-9467

\*E-Z-On Products: 800-323-6598.

\*\* List of products at

[www.safedenews.com](http://www.safedenews.com)

\*\*\* List at [www.carseat.org](http://www.carseat.org)

\*\*\*\* From 5-Step Test, SBS USA

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**Gary, Aaron**

**From:** Gary, Aaron  
**Sent:** Tuesday, September 30, 2003 9:58  
**To:** Marschman, Kathy  
**Subject:** FW: LRB 1094/1 Changes

Hi Kathy,

A couple of additional questions, then I'm going to set this aside until I hear back.

3. Regarding item 6., the draft will require s. 347.48 (4) (a) 2. to be repealed, as item 2.c. of the instructions (as I interpret it below) entirely supersedes current (4) (a) 2. So I will disregard item 6. unless you instruct me to work items 2.c. and 6. together to a different result. *→ not repealed/superseded → see answer to 2. below*

4. Regarding item 5., the earmarking of court-collected forfeitures for a specific purpose will be somewhat complicated, but it is occasionally done. However, the use of that money by necessity will require DOT to create a new "grant" program, and more guidance would be needed as to how DOT administers the program and who qualifies for grants if you want to establish this by statute - otherwise, the simplest approach would be to just establish the grant program by statute and require DOT to promulgate rules to administer the program. What is your preference on this?

Thanks. Aaron

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Tuesday, September 30, 2003 9:37 AM  
**To:** Marschman, Kathy  
**Subject:** FW: LRB 1094/1 Changes

Hi Kathy,

Another couple of questions:

1. As these redraft instructions are written (particularly the way that the connectors "and" and "or" operate under a., b., and c.), there are gaps. For example, looking at a. and b., a child under age 1 who weighs more 20 pounds doesn't fit anywhere, ie wouldn't be required to be restrained. *→ no "gap"*

2. As I read c., the booster seat requirement would apply to a child under 8 OR to a child older than 8 if the child weighs more than 40 pounds and is less than 4' 9" tall. Conceivably, this could apply to a stocky 16 year old. Is that the intent? Also, if this is your intent, it is ambiguous, I think, as to what a "child" is (a few other stats that I glanced at define child anywhere between 13 and 19 years old) - so we should add a definition of "child" as defined by age. *→ no, focus on height/weight*

Should I make educated guesses on questions like these that arise and get another draft out to you, which can be further fine-tuned? Or would you rather I continue to e-mail you with questions as I go? Thanks. Aaron

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)

09/30/2003

aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Gary, Aaron

**Sent:** Monday, September 29, 2003 4:21 PM

**To:** Marschman, Kathy

**Subject:** RE: LRB 1094/1 Changes

Hi Kathy,

I'm working on this and may have a few questions along the way. Regarding item 1., is bill section 1 sufficient as written? Or did you want to require the child to be "buckled up" if the child is seated at any designated seating position required to have a safety belt? (If it is the latter, I think I should make the corresponding language change in par. (d) to match the change in par. (c).)

Thanks. Aaron

Aaron R. Gary

Legislative Attorney

Legislative Reference Bureau

608.261.6926 (voice)

608.264.6948 (fax)

aaron.gary@legis.state.wi.us

9/30/03 Hc w/ Kathy

- OK, but increase age to

8 from 4, subject

to sub.(4)

-----Original Message-----

**From:** Marschman, Kathy

**Sent:** Friday, September 26, 2003 3:10 PM

**To:** Gary, Aaron

**Subject:** LRB 1094/1 Changes

Aaron-

Attached is document that describes changes to LRB 1094/1 that Rep. Petrowski would like. Please let me know if you have any questions. (If I sent this to you during the past few days, please let me know and disregard the rest of this message.) Have a good weekend. :)

Thanks-

Kathy

**Kathy Marschman**

Research Assistant/Committee Clerk

Representative Jerry Petrowski

86th Assembly District

608.266.1182/Toll-Free: 888.534.0086

09/30/2003

**Gary, Aaron**

---

**From:** Gary, Aaron  
**Sent:** Tuesday, September 30, 2003 12:19  
**To:** Marschman, Kathy  
**Subject:** FW: LRB 1094/1 Changes

Sorry, another question: I'm trying to fit item 2 in your instructions with item 4 in your instructions. Having a 2 1/2 yr old and a 1 1/2 yr old, I'm pretty familiar with car seats. Based upon personal experience only, I think that, in placing the rear-facing car seat we bought in the vehicle we own, the middle back seating position is the safest. Our car has a 3-point restraint in both back side seats and a 2-point restraint in the back middle seat. The car seat instructions encouraged us to use a 2-point restraint with the car seat. A special adapter (metal clip) is needed to use the car seat with a 3-point restraint and there are cautions in the car seat manual about certain 3-point restraints that may not work with it. So for this rear-facing car seat, the 2-point restraint works better. (Also, the 2-point is the only restraint in the middle of the seat, which one might consider better protected from side collisions.) There are also cautions in the car seat instructions to never put the rear-facing car seat in the front seat because, if there is an airbag, decapitation/head injury can result.

So when I read item 4 in conjunction with item 2, it seems like it could be read to require people to use seating positions that are not the safest.

A potential solution to this would be to require in item 2. a. that the rear-facing car seat always be in the back seat if there is one. Is this okay? If so, do you want to specify where the car seat in item 2. b. should go also? We could then put an exception in item 4. for items 2. a. and b. re seating position.

Thanks for your feedback. Aaron

→ yes, make changes

Aaron R. Gary  
 Legislative Attorney  
 Legislative Reference Bureau  
 608.261.6926 (voice)  
 608.264.6948 (fax)  
 aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Tuesday, September 30, 2003 9:58 AM  
**To:** Marschman, Kathy  
**Subject:** FW: LRB 1094/1 Changes

Hi Kathy,

A couple of additional questions, then I'm going to set this aside until I hear back.

3. Regarding item 6., the draft will require s. 347.48 (4) (a) 2. to be repealed, as item 2.c. of the instructions (as I interpret it below) entirely supersedes current (4) (a) 2. So I will disregard item 6. unless you instruct me to work items 2.c. and 6. together to a different result.

4. Regarding item 5., the earmarking of court-collected forfeitures for a specific purpose will be somewhat complicated, but it is occasionally done. However, the use of that money by necessity will require DOT to create a new "grant" program, and more guidance would be needed as to how DOT administers the program and who qualifies for grants if you want to establish this by statute - otherwise, the simplest approach would be to just establish the grant program by statute and require DOT to promulgate rules to administer the program. What is your preference on this?

Thanks. Aaron

Aaron R. Gary  
 Legislative Attorney

09/30/2003

**Gary, Aaron**

---

**From:** Marschman, Kathy  
**Sent:** Friday, October 31, 2003 12:01 PM  
**To:** Gary, Aaron  
**Subject:** RE: LRB-1094 - child restraint systems

(a) & (b) Earmark violation money so that the state portion goes to DOT with the express purpose of providing car seats to low-income families. It's my understanding that DOT gets funding for training and education from other sources.

Kathy

-----Original Message-----

**From:** Gary, Aaron  
**Sent:** Friday, October 31, 2003 11:50 AM  
**To:** Marschman, Kathy  
**Subject:** LRB-1094 - child restraint systems

Kathy,

I'm trying to wrap this draft up and I have a couple more questions. Regarding item 5. on your list of changes:

(a) There are two ways to carry out the financing part of this. One is to simply "earmark" violation money as indicated - the "state" portion will go into an appropriation designated for car seats. The result is that the forfeiture amount for the offender is as indicated but some money that had been going for other purposes is siphoned off - the "pool" of traffic violation money going for other purposes is reduced (although probably the reduction would be very tiny). (My understanding of existing law is that, for traffic violations, 50% goes to the local govt. in whose court the conviction is entered, and 50% goes into the state general fund as GPR for use for any purpose. So this option would result in a de minimus reduction of general fund GPR otherwise available.) The second option is to create a "special assessment" for these particular seat belt violations. In addition to the ordinary forfeiture, the offender would pay an additional "special assessment", typically 50% of the amount of the forfeiture, earmarked for use for a specific purpose, here, the car seat program. Under this option, there is no reduction in general fund GPR but the offender pays a 50% higher penalty. One of the drawbacks of this option is that, to the extent a car seat violation results from somebody not being able to afford a car seat, some might see it as a program that puts the burden of funding a program of providing car seats to the poor in part on people who cannot afford car seats. This is obviously a policy decision, but I need to know whether you want to go with option 1 or option 2 (the special assessment).

(b) Do you want the DOT program to be limited to providing car seats, or do you want to include the option for DOT to use this special funding to also do car seat training and education?

This redraft will look a lot different from earlier versions and is somewhat more complicated. Do you want me to do it as a preliminary draft under a new LRB number?

Thanks. Aaron

Aaron R. Gary  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us



## 2003 BILL

500  
turned  
in 11/3

RMR

D-Note

creating a child safety restraint  
system grant program, making  
an appropriation,

Gen. Cat.

- 1 AN ACT *to amend* 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (a) 2., 347.48 (4) (b)  
2 and 347.487 (title), and *to create* 347.48 (4) (a) 2m., 347.482 and 347.50 (4m)  
3 of the statutes; **relating to:** child safety restraint systems, seating positions,  
4 and safety belt use requirements in motor vehicles, and providing a penalty.

**Analysis by the Legislative Reference Bureau**

Under current law, with certain exceptions, no child under the age of four years may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt).

Under this bill, no child between the ages of four and eight years, weighing between 40 and 80 pounds, and four feet nine inches tall or less may be transported in a motor vehicle unless the child is properly restrained in a child booster seat, by a seat belt with a shoulder harness in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or with a shoulder harness in a back seat, if all seating positions in each back seat equipped with a shoulder harness are occupied by other children who are properly restrained, or if the child is properly restrained in a child safety seat. Certain exceptions that apply to the child safety seat requirement also apply to this requirement. A person who fails to comply with this requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. However, no

Insert  
ANAL-A

**BILL**

forfeiture may be assessed if the vehicle was not equipped with a child booster seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child booster seat was purchased or leased and properly installed in the vehicle.

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or if all designated seating positions in each back seat are occupied by younger passengers. A person who fails to comply with this requirement is subject to a forfeiture of \$10.

Under current law, with specific exceptions, no person may drive a motor vehicle unless he or she reasonably believes that each passenger between the ages of four and 15 years is properly restrained by a seat belt. This bill extends this requirement to passengers up to the age of 16 years.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 347.48 (2m) (c) of the statutes is amended to read:

347.48 (2m) (c) If Subject to ~~sub (4) (a) 2. and 2m. and s. 347.482,~~ if a motor vehicle is required to be equipped with safety belts in this state, no person may operate that motor vehicle unless he or she reasonably believes that each passenger who is at least ~~4~~<sup>8</sup> years old and not more than 15 ~~16~~ years old and who is seated at a designated seating position in the front seat required under 49 CFR 571 to have a safety belt installed or at a designated seating position in the seats, other than the front seats, for which a shoulder harness has been installed is properly restrained.

**SECTION 2.** 347.48 (2m) (d) of the statutes is amended to read:

347.48 (2m) (d) If Subject to ~~sub (4) (a) 2. and 2m. and s. 347.482,~~ if a motor vehicle is required to be equipped with safety belts in this state, no person who is at least ~~4~~<sup>8</sup> years old and who is seated at a designated seating position in the front seat required under 49 CFR 571 to have a safety belt installed or at a designated seating

## BILL

1 position in the seats, other than the front seats, for which a shoulder harness has  
2 been installed may be a passenger in that motor vehicle unless the person is properly  
3 restrained.

4 **SECTION 3.** 347.48 (4) (a) 2. of the statutes is amended to read:

5 347.48 (4) (a) 2. ~~No~~ Except as provided in subd. 2m., no person may transport  
6 a child who is at least 4 years old but less than 8 years old in a motor vehicle unless  
7 the child is properly restrained in a child safety restraint system approved by the  
8 department under subd. 1. or in a safety belt approved by the department under sub.  
9 (2). In this subdivision, "properly restrained" means fastened in a manner  
10 prescribed by the manufacturer of the system ~~which that~~ permits the system to act  
11 as a body restraint.

12 **SECTION 4.** 347.48 (4) (a) 2m. of the statutes is created to read:

13 347.48 (4) (a) 2m. No person may transport a child who is at least 4 years old  
14 but less than 8 years old, who weighs at least 40 pounds but not more than 80 pounds,  
15 and is not more than 57 inches in height, in a motor vehicle unless the child is  
16 properly restrained in a child booster seat positioned at a designated seating position  
17 for which a shoulder harness has been installed in a back passenger seat. In this  
18 subdivision, "child booster seat" means a child passenger restraint system that  
19 meets the applicable federal standards under 49 CFR 571.213 and is designed to  
20 elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly  
21 positioned over the child's body. In this subdivision, "properly restrained" means  
22 wearing a safety belt consisting of a combination lap belt and shoulder harness  
23 approved by the department under sub (2) and fastened in a manner prescribed by  
24 the manufacturer of the safety belt so that the safety belt properly fits across a child's  
25 lap and the center of a child's chest in a manner appropriate to the child's height,

**BILL**

weight, and age that permits the safety belt to act effectively as a body restraint. This subdivision does not apply under any of the following circumstances:

- a. The child is being transported in compliance with subd. 1.
- b. The vehicle is not equipped with a back passenger seat.
- c. The vehicle is not equipped with a shoulder harness in any back passenger seat.
- d. Each designated seating position equipped with a shoulder harness in a back passenger seat of the vehicle is occupied by another child who is less than 8 years old, weighs not more than 80 pounds, and is not more than 57 inches in height, and who is properly restrained.

**SECTION 5.** 347.48 (4) (b) of the statutes is amended to read:

347.48 (4) (b) The department may, by rule, exempt from the requirements under ~~par. (a)~~ <sup>strike</sup> par. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

**SECTION 6.** 347.482 of the statutes is created to read:

**347.482 Child seating requirements.** No person may operate a motor vehicle unless he or she reasonably believes that each passenger who is ~~at least 4 years old but~~ <sup>insert 4-14</sup> less than 12 years old is seated at a designated seating position in a back passenger seat of the vehicle. This section does not apply if the vehicle is not equipped with a back passenger seat or if all designated seating positions in each back passenger seat of the vehicle are occupied by younger passengers. <sup>insert 4-15</sup>

**SECTION 7.** 347.487 (title) of the statutes is amended to read:

**347.487 (title) Seating Motorcycle seating requirements.**

**SECTION 9.** 347.50 (4m) of the statutes is created to read:

**BILL**

1 347.50 (4m) (a) Any person violating s. 347.48 (4) (a) 2m. may be required to  
2 forfeit not less than \$10 nor more than \$25 for the first offense. For a 2nd or  
3 subsequent conviction within 3 years, a person may be required to forfeit not less  
4 than \$25 nor more than \$200.

5 (b) No forfeiture may be assessed under par. (a) if all of the following apply:

6 1. The motor vehicle was not equipped with a child booster seat meeting the  
7 requirements under s. 347.48 (4) (a) 2m. at the time that the uniform traffic citation  
8 was issued.

9 2. The person provides proof that, within 30 days after the uniform traffic  
10 citation was issued, a child booster seat meeting the requirements under s. 347.48  
11 (4) (a) 2m. was purchased or leased and properly installed in the motor vehicle.

12 **SECTION 8. Initial applicability.**

13 (1) This act first applies to violations committed on the effective date of this  
14 subsection, but does not preclude the counting of other violations as prior violations  
15 for purposes of sentencing a person.

16 **SECTION 9. Effective date.**

17 (1) This act takes effect on the first day of the 4th month beginning after  
18 publication.

19 (END)

Insert  
5-11  
p. Note

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1094/2ins

ARG:.....

**INSERT ANAL -A:** ✓

(no P) A person who fails to comply with the child safety seat requirement is subject to a forfeiture of not less than \$30 nor more than \$75, but no forfeiture may be assessed if the vehicle was not equipped with a child safety seat at the time of the violation and the person provides proof that, within 30 days after the violation, a child safety seat was purchased or leased and properly installed in the vehicle. A person who fails to comply with the seat belt requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

This bill creates a tiered structure, according to age and size, of restraint requirements for transporting children under the age of eight in a motor vehicle. Under this bill, a child who is:

1. Less than one year old or who weighs less than 20 pounds must be properly restrained in a rear-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

2. At least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds must be properly restrained in a forward-facing child safety seat in the back seat of the vehicle if the vehicle is equipped with a back seat.

3. At least four years old but less than eight years old, weighs between 40 and 80 pounds, and is no more than four feet nine inches tall must be properly restrained in a child booster seat positioned according to the child seating requirements described below.

, above, 4. Under the age of eight and exceeds the weight or height limits specified in Item 3, must be properly restrained by a seat belt (as under current law), and is subject to the child seating requirements specified below.

If a child, because of age, weight, or height, falls into more than one of these categories, the child must be transported according to the requirements of the more protective category. If a vehicle is not equipped with a back seat, the seating position requirement under Items 1. and 2. does not apply. ) above,

This bill prohibits a person from transporting a child under the age of eight in a motor vehicle unless the child is properly restrained as described above and the restraint system meets the standards established by the Department of Transportation (DOT) and is appropriate to the child's age and size. Certain exceptions that apply under current law continue to apply to these requirements.

Under the bill, the same penalty applies regardless of which specific requirement is violated. A person who fails to comply with any of these requirements is subject to a forfeiture of not less than \$30 nor more than \$75 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200. However, no forfeiture may be assessed if the vehicle was not equipped with an applicable child safety restraint system at the time of the violation, the person provides proof that, within 30 days after the violation, a child

safety restraint system was purchased or leased and properly installed in the vehicle, and the person has not been issued a uniform traffic citation for violation of the child safety restraint system requirements within ~~three years previously~~

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position as follows:

1. In a back seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

2. If the vehicle does not have a seat described in ~~Item 1.~~, then in a front seat equipped with a lap belt and shoulder harness, unless each such seat is occupied by a younger or smaller child who is properly restrained.

3. If the vehicle does not have a seat described in either ~~Item 1. or 2.~~, then in a back seat, unless each such seat is occupied by a younger or smaller child who is properly restrained.

4. If the vehicle does not have a seat described in any of ~~Items 1. to 3.~~, then in any seat determined by the vehicle operator to be the safest considering the child's age and size.

These requirements do not apply to a child required to be transported in a rear-facing or forward-facing child safety seat, who, as described above, must be transported in a back seat. Items 1. and 3. do not apply if the vehicle is not equipped with a back seat. A person who fails to comply with these requirements is subject to a forfeiture of \$10.

#### INSERT ANAL -B:

The bill also requires DOT to develop and administer a program to provide grants to low-income families for the purchase of child safety restraint systems. DOT must adopt rules to implement and administer the program, including standards and criteria for the awarding of grants.

Under current law, fines and forfeitures collected as a result of convictions for state traffic offenses are divided between the collecting local government and the state. Generally, 50% of all fines and forfeitures for state traffic offenses is deposited in the ~~general~~ fund, but a different allocation, involving the deposit of 40% of all fines or forfeitures in the transportation fund, is made for offenses related to the size, weight, and load of vehicles. This bill requires 50% of all forfeitures collected for child safety restraint system violations to be deposited in the transportation fund to be used exclusively for the child safety restraint system grant program.

#### INSERT 2-1:

SECTION 1. 20.395 (5) ~~(a)~~ of the statutes is created to read:

common school

(99)

and <sup>ten</sup> ~~10~~ percent  
in the common  
school fund

(99)  
> 20.395 (5) ~~(g)~~ *Child safety restraint system grants, state funds.* All moneys received from forfeitures under s. 347.50 (3) (a), for the purpose of awarding grants under s. 85.56. *allocated to the state*

SECTION 2. 25.40 (1) (ik) of the statutes is created to read:

25.40 (1) (ik) All moneys forwarded by county treasurers from forfeitures under s. 347.50 (3) (a), as provided in s. 59.25 (3) (jm).

SECTION 3. 59.25 (3) (j) of the statutes is amended to read:

59.25 (3) (j) Retain 10% for fees in receiving and paying into the state treasury all money received by the treasurer for the state for fines and penalties, except that 50% of the state forfeitures, fines and penalties under chs. 341 to 347, 349 and 351 shall be retained as fees, and retain the other fees for receiving and paying money into the state treasury that are prescribed by law. This paragraph does not apply to forfeitures under s. 347.50 (3) (a). → 7

SECTION 4. 59.25 (3) (jm) of the statutes is created to read:

59.25 (3) (jm) Forward 50% *percent* of the forfeitures under s. 347.50 (3) (a) to the state treasurer for deposit in the transportation fund under s. 25.40 (1) (ik).

SECTION 5. 85.56 of the statutes is created to read:

✓ 85.56 Child safety restraint system grant program. The department shall develop and administer a program to provide grants to low-income families for the purchase of child safety restraint systems, including infant and toddler car seats and child booster seats, for the purpose of promoting compliance with the requirements of s. 347.48 (4). Grants awarded under this section shall be paid from the appropriation under s. 20.395 (5) ~~(g)~~ *(99)*. The department shall adopt rules to implement and administer this section, including standards and criteria for ~~the~~ *the* awarding ~~of~~ grants.



**SECTION 6.** 343.32 (2) (bt) of the statutes is amended to read:

343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) ~~(a)~~ (am).

**INSERT 3-3:** ✓

**SECTION 7.** 347.48 (4) (ag) of the statutes is created to read:

347.48 (4) (ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

3. "Properly restrained" means:

a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the manufacturer of the child safety restraint system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1).

b. With respect to par. (as) 3., wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the department under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's height, weight, and age that permits the safety belt to act as a body restraint.

c. With respect to par. (as) 4., fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

*Handwritten notes:*  
SORT; out-of-order  
much of this insert is out-of-order

SECTION 8. 347.48 (4) (a) 1. of the statutes is renumbered 347.48 (4) (am) and amended to read:

347.48 (4) (am) ~~No~~ Subject to par. (au), no person may transport a child under the age of ~~8~~ in a motor vehicle unless the child is properly restrained in compliance with par. (as) in a child safety restraint system is approved that is appropriate to the child's age and size and that meets the standards established by the department under this paragraph. In this subdivision, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1). The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for approved types of child safety restraint systems for those child restraint systems purchased after November 1, 1982.

SECTION 9. 347.48 (4) (as) (Intro.) And 1 to 3 of the statutes ~~are~~ created to read:

347.48 (4) (as) A child under the age of 8 being transported in a motor vehicle shall be restrained as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing child safety restraint system, positioned at

a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a child booster seat, positioned in compliance with s. 347.482. ✓

SECTION 10. 347.48 (4) (a) 2. of the statutes is renumbered 347.48 (4) (as) 4. and amended to read:

347.48 (4) (as) 4. ~~No person may transport a~~ Subject to subds. 1. to 3., if the child who is at least 4 years old but <sup>is</sup> less than 8 years old in a motor vehicle unless, the child is shall be properly restrained in a child safety restraint system approved by the department under subd. 1. or in a safety belt approved by the department under sub. (2) positioned in compliance with s. 347.482. In this subdivision, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

SECTION 11. 347.48 (4) (a) 3. ~~(intro.)~~ of the statutes is renumbered 347.48 (4) (au) ~~(intro.)~~ and amended to read:

347.48 (4) (au) (intro.) Notwithstanding subds. 1. and 2. para. (am) and (as), a person other than the operator of a motor vehicle transporting a child required to be properly restrained under subd. 1. or 2. para. (am) and (as) may temporarily remove a child from a safety restraint system to attend to the personal needs of the child under all of the following conditions:

INSERT 4-14: ✓

SECTION 12. 347.48 (4) (d) of the statutes is amended to read:

347.48 (4) (d) Evidence of compliance or failure to comply with ~~par. (a)~~ <sup>✓</sup> pars. (am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with ~~par. (a)~~ <sup>✓</sup> pars. (am) and (as) does not by itself constitute negligence.

INSERT 4-15: ✓

**347.482 Child seating requirements.** (1) In this section, "designated seating position" has the meaning given in 49 CFR 571.3.

(2) Except as provided in s. 347.48 (4) (as) 1. and 2., no person may operate a motor vehicle unless he or she reasonably believes that each passenger who is less than 12 years old is seated as follows:

(a) At a designated seating position in a back passenger seat of the vehicle if the seating position is equipped with a combination lap belt and shoulder harness, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4). ✓

(b) If the vehicle is not equipped with a seating position specified in par. (a), at a designated seating position in a front passenger seat of the vehicle if the seating position is equipped with a combination lap belt and shoulder harness, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(c) If the vehicle is not equipped with a seating position specified in par. (a) or (b), at a designated seating position in a back passenger seat of the vehicle, unless all such seating positions are occupied by other passengers who are younger or weigh less and who are properly restrained in compliance with s. 347.48 (4).

(d) If the vehicle is not equipped with a seating position specified in par. (a), (b), or (c), at any designated seating position determined by the operator to be the safest seating position considering the age and size of the passenger.

(3) Subsection (2) (a) and (c) ~~do~~ not apply if the vehicle is not equipped with a back passenger seat. does

INSERT 5-11: ✓

SECTION 13. 347.50 (1) of the statutes is amended to read:

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.413 (1) or s. 347.415 (1), (2) and (3) to (5) or s. 347.417 (1) or s. 347.475 or s. 347.48 (2m) or (4) ~~(a)~~ or s. 347.489, may be required to forfeit not less than \$10 nor more than \$200.

SECTION 14. 347.50 (3) (a) ~~and (b)~~ of the statutes <sup>is</sup> amended to read:

347.50 (3) (a) Any person violating s. 347.48 (4) ~~(a) 1.~~ <sup>is</sup> (am) may be required to forfeit not less than \$30 nor more than \$75. For a 2nd or subsequent conviction within 3 years, a person may be required to forfeit not less than \$75 nor more than \$200.

SECTION 15. 347.50 (3) (b) of the statutes is amended to read:

347.50 (3) (b) No forfeiture may be assessed under par. (a) if all of the following apply:

1. The motor vehicle was not equipped with a child safety restraint system meeting the requirements under s. 347.48 (4) ~~(a) 1.~~ <sup>✓</sup> (am) at the time the uniform traffic citation was issued; ~~and~~.

2. The person provides proof that, within 30 days after the uniform traffic citation was issued, a child safety restraint system meeting the requirements under s. 347.48 (4) ~~(a) 1.~~ <sup>✓</sup> (am) was purchased or leased and properly installed in the motor vehicle.

**SECTION 16.** 347.50 (3) (b) 3. of the statutes is created to read:

> 347.50 (3) (b) 3. The person has not, within 3 years ~~previously~~ been issued a uniform traffic citation for <sup>a</sup> violation of s. 347.48 (4) (am).

**SECTION 17.** 347.50 (4) of the statutes is repealed.

the immediately <sup>reced</sup> preceding

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1094/2dn

ARG: /s/....

*img*

ATTN: Kathy Marschman

Please review this redraft carefully to ensure that it is consistent with your intent. The content of the bill has changed significantly from the "1" version.

Rather than continuing the seemingly outdated language of requiring child safety seats to be "approved" by DOT, the attached draft requires child safety seats to comply with the standards established by DOT. Is this okay? The draft, however, does not attempt to revise existing statutory language related to DOT approving types of seat belts. It is my understanding that DOT's "approval" is basically just a matter of incorporating federal standards.

I also added s. 347.50 (3) (b) 3. Is this okay?

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

Article X, section 2, of the <sup>Wisconsin</sup> ~~state~~ Constitution requires the proceeds of fines and forfeitures to be deposited in the common school fund. Although there is <sup>precedent</sup> ~~precedent~~ for allocating <sup>some</sup> ~~some~~ of these fines and forfeitures to the transportation fund (that is, the ch. 348 violations), such allocation may be subject

to constitutional challenge. As we discussed, an alternative funding mechanism may be to create a special assessment related to child restraint violations.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1094/2dn  
ARG:kmg:pg

November 13, 2003

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